

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF PENNSYLVANIA
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4 NEAL MILLER and DONNA : No.: 2:20-cv-06301-ER
5 MILLER, Individually and :
6 as Administrators of the :
7 ESTATE OF RYAN MILLER, :

8 Plaintiffs, :
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-VS-

CITY OF PHILADELPHIA,
et al,

Defendants. :

- - -

15 Oral Deposition of DETECTIVE VINCENT
16 STRAIN taken at the Law Office of the City of
17 Philadelphia, Law Department, 1515 Arch Street, 14th
18 Floor, Philadelphia, Pennsylvania 19102, on Friday,
19 December 15, 2023, commencing at 10:00 a.m., before
20 Nicole DeNofa, a Registered Professional Reporter
21 and Notary Public.

1 A P P E A R A N C E S:

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2 I N D E X
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5 WITNESS:

PAGE:

6 DETECTIVE VINCENT STRAIN
7

8 EXAMINATION:

9 BY MR. LEVIN

4 / 40

10 BY MR. KANE
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13 E X H I B I T S
14 - - -

15 NAME

DESCRIPTION

MARKED

16 Strain-1

Packet of docs

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<p style="text-align: right;">Page 4</p> <p>1 - - -</p> <p>2 ... DETECTIVE VINCENT STRAIN,</p> <p>3 having been duly sworn, was examined and testified</p> <p>4 as follows:</p> <p>5 - - -</p> <p>6 E X A M I N A T I O N</p> <p>7 - -</p> <p>8 BY MR. LEVIN:</p> <p>9 Q. Good morning, Detective Strain. My name</p> <p>10 is Michael Levin. We had a brief opportunity to</p> <p>11 meet and talk a little bit before the deposition.</p> <p>12 But for the record, I'm representing the Estate of</p> <p>13 Ryan Miller in connection with an incident that</p> <p>14 happened backed in May of 2019.</p> <p>15 My understanding is you had been involved</p> <p>16 in an investigation regarding Ryan Miller prior to</p> <p>17 his death. We asked you to come here and give fact</p> <p>18 testimony about that.</p> <p>19 First off, I'm going to assume the answer</p> <p>20 is yes, but have you given a deposition before?</p> <p>21 A. I have.</p> <p>22 Q. All right. So you basically know the</p> <p>23 ground rules. Wait for me to finish the question.</p> <p>24 Try to keep your answers verbal. If I ask you a</p>	<p style="text-align: right;">Page 6</p> <p>1 was taking place?</p> <p>2 A. Yes.</p> <p>3 Q. What's your current age?</p> <p>4 A. Forty-three.</p> <p>5 Q. And your rank is detective?</p> <p>6 A. Yes, it is.</p> <p>7 Q. How long have you been a detective for the</p> <p>8 police department?</p> <p>9 A. About nine years or so.</p> <p>10 Q. I don't want to spend a lot of time on</p> <p>11 background, but if you could give us a sense of your</p> <p>12 educational background, your professional background</p> <p>13 through the department?</p> <p>14 A. I have 21 years with the Philadelphia</p> <p>15 Police Department. I have a Bachelor's Degree in</p> <p>16 liberal studies.</p> <p>17 Q. When did you get your Bachelor's?</p> <p>18 A. About five or six years ago, somewhere</p> <p>19 around there.</p> <p>20 Q. And where did you get it from?</p> <p>21 A. Neumann University.</p> <p>22 Q. When you started with the Philadelphia</p> <p>23 Police Department, did you go to the Philadelphia</p> <p>24 Police Academy?</p>
<p style="text-align: right;">Page 5</p> <p>1 question you do not know or can't remember the</p> <p>2 answer, that's perfectly fine. We have some</p> <p>3 documents generated during the course of your</p> <p>4 investigation to refer to, if that'll help you. But</p> <p>5 it's certainly okay if there's something you can't</p> <p>6 remember. It's not a test.</p> <p>7 If I ask you a question and you don't</p> <p>8 understand the question, I'll be glad to repeat it</p> <p>9 or rephrase it. Very straight forward, very narrow</p> <p>10 subject matter we're dealing with today. Hopefully,</p> <p>11 we won't run into any problems, but I want you to</p> <p>12 understand everything you're being asked at the very</p> <p>13 least.</p> <p>14 Have you understood all the instructions?</p> <p>15 A. I do.</p> <p>16 Q. Could you please state your full name for</p> <p>17 the record.</p> <p>18 A. Vincent Strain, S-T-R-A-I-N. I'm</p> <p>19 currently assigned to the Special Victim's Unit.</p> <p>20 Q. How long have you been with the Special</p> <p>21 Victim's Unit?</p> <p>22 A. Five years.</p> <p>23 Q. So that would have encompassed this period</p> <p>24 in and around February 2019 when this investigation</p>	<p style="text-align: right;">Page 7</p> <p>1 A. I did.</p> <p>2 Q. Now, so your job title was detective and</p> <p>3 your assignment as of February 2019 was Special</p> <p>4 Victim's Unit. Did there come a time when you</p> <p>5 became involved in an investigation concerning a</p> <p>6 minor named Ryan Miller?</p> <p>7 A. Yes, there was.</p> <p>8 Q. And how did that come about?</p> <p>9 A. A report was taken by an officer and then</p> <p>10 it was brought to the Special Victim's Unit. And I</p> <p>11 was assigned the investigator to that case.</p> <p>12 Q. Okay. And just to, sort of, put it on the</p> <p>13 record. Prior to starting off today, counsel for</p> <p>14 the city was kind enough to provide me the</p> <p>15 opportunity to view, I guess, the video that led to</p> <p>16 this investigation, which was a short snippet of a</p> <p>17 video of an underaged girl giving an underaged boy</p> <p>18 oral sex; is that a fair characterization?</p> <p>19 MR. KANE: Objection to the form.</p> <p>20 You can answer.</p> <p>21 THE WITNESS: That's correct.</p> <p>22 BY MR. LEVIN:</p> <p>23 Q. And my understanding is, basically,</p> <p>24 there's an incident between this girl and this boy</p>

<p>Page 8</p> <p>1 in or around the month of December 2018; is that 2 right?</p> <p>3 A. That's correct.</p> <p>4 Q. And that's the actual incident that was 5 depicted on the video I just referred to?</p> <p>6 A. That is correct.</p> <p>7 Q. And I'm going to, sort of, go through the 8 facts as I understand them. Please correct me if 9 I'm wrong on any of this. I'm trying to get through 10 the preliminaries and, sort of, I guess, the 11 sequence of events that led to your involvement and 12 then, sort of, get into the substance of your 13 investigation.</p> <p>14 My understanding is these two kids, Ryan 15 Miller and the girl, who I'm going to refer to as 16 M., since she is underage and considered a victim. 17 Ryan Miller and M. knew each other prior to this 18 incident?</p> <p>19 A. That's correct.</p> <p>20 Q. And my understanding is that this actually 21 occurred when they were walking into school 22 together?</p> <p>23 A. Can you repeat that?</p> <p>24 Q. The incident that occurred that led to</p>	<p>Page 10</p> <p>1 A. I'd have to look at the notes to see the 2 exact address.</p> <p>3 Q. Fair enough. Why don't we make this 4 simpler for you. I have a packet of documents that 5 was produced by counsel. We're going to mark this 6 collectively as Strain-1. You'll see, as you go 7 through, I have everything numbered consecutively on 8 the lower right-hand side.</p> <p>9 - - -</p> <p>10 (Whereupon, Strain-1 was marked for 11 identification.)</p> <p>12 - - -</p> <p>13 BY MR. LEVIN:</p> <p>14 Q. First, let me ask you, you had the 15 opportunity, before sitting for this deposition 16 today, to review those documents, correct?</p> <p>17 A. I did.</p> <p>18 Q. And I'll represent to you the only thing I 19 omitted from what I just handed over to you, there 20 was some photos of the cell phone, the SIM card, and 21 there was one picture of Ryan Miller and the two of 22 them were in a police station, didn't bring those, 23 but basically everything that's substantive is in 24 front of you.</p>
<p>Page 9</p> <p>1 this investigation, that happened when they were 2 walking into school one morning?</p> <p>3 A. The incident that led up to the video, I 4 believe they left school. It was outside the school 5 grounds.</p> <p>6 Q. Okay. I thought it was before school; is 7 that not correct?</p> <p>8 A. I don't recall specifically. I know they 9 had met up. I believe it may have been they met up 10 prior to school and then went to a park and then 11 ended up going back to school --</p> <p>12 Q. Okay.</p> <p>13 A. -- after.</p> <p>14 Q. And the actual incident that's depicted in 15 that video took place in a park?</p> <p>16 A. That's correct. Yeah, at a park. Not on 17 school grounds.</p> <p>18 Q. Close to the school?</p> <p>19 A. I believe so, yeah.</p> <p>20 Q. And which school was that?</p> <p>21 A. I'd have to refer to the notes.</p> <p>22 Q. Is that AMY 5?</p> <p>23 A. AMY 5, yeah.</p> <p>24 Q. Where is that school located?</p>	<p>Page 11</p> <p>1 Now, the investigative records you have in 2 front of you, are those records that Philadelphia 3 Police Department keeps in the normal course of its 4 business activities?</p> <p>5 A. That's correct.</p> <p>6 Q. And the documents themselves, they record 7 incidents or developments in an investigation that 8 are generated at or near the time those incidents 9 occurred, right?</p> <p>10 A. That's correct.</p> <p>11 Q. They're basically considered a reliable 12 record of what transpired at various parts of the 13 investigation?</p> <p>14 A. Yes, they are.</p> <p>15 Q. All right. So an officer was informed of 16 this incident through, my understanding is the 17 principal at school?</p> <p>18 A. That's correct. They would have responded 19 from a 911 call that the school would've made.</p> <p>20 Q. Okay. So, sort of, back to the genesis of 21 the whole investigation, Ryan Miller, who was, I 22 believe, 15 at the time, and the girl, M., who was 23 12 at the time, correct?</p> <p>24 A. That's correct.</p>

<p>Page 12</p> <p>1 Q. She engaged in an act of oral sex, which</p> <p>2 is the subject of a short snippet of video that Ryan</p> <p>3 took on his cell phone, right?</p> <p>4 A. Correct.</p> <p>5 Q. After that incident, the two went into</p> <p>6 school together, right?</p> <p>7 A. That's correct.</p> <p>8 Q. And from there, nothing really came of it</p> <p>9 until the following February, February 2019, a</p> <p>10 couple months later, right?</p> <p>11 A. Yes.</p> <p>12 Q. She did not report it to any adults or</p> <p>13 authorities or teachers at the school?</p> <p>14 A. Not that I'm aware of, no.</p> <p>15 Q. And my understanding is the video snippet</p> <p>16 we just saw, either kids at school found out about</p> <p>17 it or it started to make the rounds amongst the kids</p> <p>18 at school and eventually it came to the principal's</p> <p>19 attention through that?</p> <p>20 A. Yes.</p> <p>21 Q. My understanding is a couple students told</p> <p>22 the principal about it, right?</p> <p>23 A. Yes, they did.</p> <p>24 MR. KANE: Objection to the form.</p>	<p>Page 14</p> <p>1 correct?</p> <p>2 A. Yes, she was.</p> <p>3 Q. From looking at the principal's interview,</p> <p>4 it seems that the girl, M., initially denied that</p> <p>5 was her for a couple of hours, right?</p> <p>6 A. Yes, she did.</p> <p>7 Q. Her mom was brought into the school?</p> <p>8 A. Yes.</p> <p>9 Q. And at that time, that's when she says, I</p> <p>10 was raped, correct?</p> <p>11 A. Correct.</p> <p>12 Q. Specifically, what she was saying is she</p> <p>13 was held at knifepoint and forced to perform this</p> <p>14 act, right?</p> <p>15 A. That is correct.</p> <p>16 Q. There was no record of her making that</p> <p>17 allegation any time before her mom showed up at the</p> <p>18 school?</p> <p>19 A. Not that I'm aware of, no.</p> <p>20 Q. Now, it was after that, principal calls</p> <p>21 the police, and I think it said an Officer Flynn who</p> <p>22 makes the initial contact?</p> <p>23 A. Yes.</p> <p>24 Q. And is he with the Special Victim's Unit</p>
<p>Page 13</p> <p>1 BY MR. LEVIN:</p> <p>2 Q. The principal then brings in the police,</p> <p>3 after -- I guess she spoke to the children prior to</p> <p>4 that, right?</p> <p>5 A. That's correct, yeah.</p> <p>6 Q. And I think it's reflected in the</p> <p>7 documents. If you need to refer to these at all,</p> <p>8 feel free. But just that my understanding is, sort</p> <p>9 of, how this came about, the video surfaces amongst</p> <p>10 some students at the school. One of the students,</p> <p>11 or maybe more than one, brings it to the principal's</p> <p>12 attention. The principal then gets Ryan, brings him</p> <p>13 down to the office or wherever, asked to see the</p> <p>14 video, right?</p> <p>15 A. Yes.</p> <p>16 Q. She viewed that, determined who the girl</p> <p>17 was in the video?</p> <p>18 A. I believe Ryan gave the girl's name to the</p> <p>19 principal.</p> <p>20 Q. And she's also a student at the school,</p> <p>21 right?</p> <p>22 A. Yes, she is.</p> <p>23 Q. And when she found out who the girl was,</p> <p>24 the girl was also brought down to the principal,</p>	<p>Page 15</p> <p>1 or with the police generally?</p> <p>2 A. He's an officer on the street, yeah. So</p> <p>3 he would've answered the 911 call and been the first</p> <p>4 one to report to the school.</p> <p>5 Q. Now, going through Strain-1, there is just</p> <p>6 a complaint or incident report sitting right in</p> <p>7 front of you, Page 4 of this packet, is that Officer</p> <p>8 Flynn's initial report?</p> <p>9 A. Yes, that would have been the initial</p> <p>10 report by Officer Flynn or his partner, Office</p> <p>11 McKee. They would've completed this,</p> <p>12 Q. A lot of it is really illegible. I</p> <p>13 couldn't tell who did it.</p> <p>14 That's the initial report. I'm assuming</p> <p>15 that based on the nature of this allegation that</p> <p>16 involved, potentially, an act of sexual abuse</p> <p>17 against somebody very young; that's how your</p> <p>18 department gets involved, correct?</p> <p>19 A. That's correct, yeah.</p> <p>20 Q. That would be the normal course, underage</p> <p>21 victim, that type of thing?</p> <p>22 A. Yeah. So the officer that responded, once</p> <p>23 there's an allegation of sexual abuse or any kind of</p> <p>24 sexual act that was unwanted or unwarranted, they</p>

<p>1 would contact Special Victim's Unit and speak with a 2 supervisor to see if that would be a case that we 3 would handle. In this case, you know, we did handle 4 the case. And it was brought up to our unit. 5 Q. Okay. And could you just, sort of, give 6 me an idea how the case ends up being assigned to 7 you? 8 A. So we work -- so I'm in a line squad at 9 Special Victim's Unit. Any live jobs normally come 10 to the line squad. And we work on what's called a 11 wheel. So if there's three detectives working at 12 the time, you know, Detective A, B, C, first case 13 that comes in goes to A; second one, B; third one, 14 C. Next one would go back to A. That's how we 15 work. So I was up for this case when it came to the 16 Special Victim's Unit. 17 Q. Okay. Were you considered the head of 18 this investigation once it was in your unit? 19 A. Yes. I would have been the assigned 20 detective, correct. 21 Q. And I know there was some other -- I don't 22 know their ranks, but I don't know if they're 23 detectives or officers, but I know there's some 24 other police officers, some rank or another,</p>	<p>Page 16</p> <p>1 forensic interviews, you know, it's in a comfortable 2 setting, in a room, one-on-one. So it's the 3 complainant and the interviewer. And then the 4 assigned detective or another detective that's 5 available will watch the interview from another room 6 and then communicate with the forensic interviewer 7 any follow-up questions that need to be asked. 8 So that was done for M. at the time. We 9 did a forensic interview on M. After the forensic 10 interview was completed of M., I did a one-on-one 11 interview with some follow-up questions with M. 12 Ryan was in custody at the time, so I had a short 13 conversation with Ryan while he was in custody, 14 explaining what he was doing there. I recovered 15 Ryan's phone. I recovered M.'s phone. And then I 16 eventually did forensic dumps of those phones, as 17 well as I did search warrants to M. and Ryan's 18 Instagram accounts. 19 Q. Now, I want to go through some of the 20 documents that are in the packet so we're 21 identifying what's what. And it looks like Pages 1 22 through 3 of Strain-1, looks like an application for 23 a search warrant, and it appears to have been 24 approved by an issuing authority; is that correct?</p> <p>Page 18</p>
<p>1 involved in the investigation conducted by your 2 unit; is that correct? 3 A. That is correct. 4 Q. Who were they? 5 A. Officer Viera, he sat on a good portion of 6 the forensic interview of M. And then I believe a 7 Detective Gonzalez did one of the interviews of one 8 of the witnesses, and then Officer Wilson also did 9 an interview of, I believe, M.'s mother. 10 Q. Okay. So as a consequence of sitting down 11 for interviews and speaking to the police, victim, 12 victim's mom, what was your next step after that in 13 terms of conducting the investigation? 14 A. So the witness first was brought into the 15 Special Victim's Unit. All the parties were brought 16 to our unit. So Ryan Miller was brought up. He was 17 brought up in custody. So he was held for a time at 18 our unit. The complainant, M., was brought up and 19 she was forensically interviewed. 20 Now, how we do our interviews with 21 children or anyone usually under 18 who was possibly 22 sexually assaulted, we use the PCA, which is the 23 Philadelphia Children's Alliance. And they conduct 24 our forensic interviews. So when they conduct these</p> <p>Page 17</p>	<p>1 A. That is correct. That would have been the 2 search warrant for the cell phone belonging to Ryan 3 Miller. 4 Q. When was this application actually 5 approved? 6 A. It was approved on March 3, 2019. 7 Q. Okay. So from the period -- all these 8 initial interviews, they were all February 8th of 9 2019; is that correct? 10 A. I believe so. 11 Q. So did the phone remain in police custody 12 from the date of that until the warrant for the 13 phone is actually approved? 14 A. That's correct. Yeah, it would have been 15 placed on a property receipt, documenting that we 16 had it, and then the analysis would have been done 17 after that. 18 Q. This particular warrant, the first thing 19 that we have in this packet, this is for the 20 contents of the cell phone, so it's video, contacts, 21 all of that, correct? 22 A. That's correct. 23 Q. And how is that actually accomplished? Do 24 you have somebody internal who handles it or do you</p> <p>Page 19</p>

<p>Page 20</p> <p>1 use an external vendor to do these data dumps with 2 the phones?</p> <p>3 A. We do have an internal person that can do 4 it. For any reason they wouldn't be available, we 5 have access to what's called the RCFL. It's an FBI 6 forensic laboratory.</p> <p>7 Q. And all of those materials, including the 8 video, they were recovered from the phone, correct?</p> <p>9 A. That's correct.</p> <p>10 Q. All right. Was there any additional 11 material that was found in that data dump from the 12 phone that was relevant to the consideration of 13 charges, any messages, emails, anything of that 14 nature that pertain to this event?</p> <p>15 A. Not that I can recall specifically from 16 the phone. There was messages through Instagram 17 when I did the search warrants to Instagram that may 18 have been pertinent, but not specifically that I can 19 recall from his phone, other than the video.</p> <p>20 Q. Okay. Now, moving on to, I believe, it's 21 Pages 5 through 7 of the packet. This looks to 22 actually be -- this is the interview of M., correct?</p> <p>23 A. That's correct. That's the follow-up 24 interview I did of M. after she was forensically</p>	<p>Page 22</p> <p>1 states: It was referred to PCA on February 8, '19. 2 Which is the day when all these people 3 were interviewed initially, right?</p> <p>4 A. That's correct.</p> <p>5 Q. It says: According to the referral 6 information, principal saw the video in --</p> <p>7 A. So "A.P." stands for alleged perpetrator.</p> <p>8 Q. -- in alleged perpetrator's phone of M. 9 performing oral sex. Alleged perpetrator says M. is 10 his girlfriend and it was consensual. Mom of M. 11 went to school and M. says it happened over school 12 break and that A.P. put a knife to her, that it was 13 not consensual.</p> <p>14 Through any -- all parts of your 15 investigation, any part of the investigation, was 16 there ever any evidence that supported there was a 17 knife being held to her other than her allegation?</p> <p>18 A. No, there wasn't.</p> <p>19 Q. We didn't see that in the video, fair to 20 say?</p> <p>21 A. That's correct.</p> <p>22 Q. Nothing in terms of the audio that's on 23 the video really supports that there was any 24 coercion or threat there, right?</p>
<p>Page 21</p> <p>1 interviewed by PCA.</p> <p>2 Q. Okay. I believe this might be the only 3 interview I've seen, maybe I'm wrong.</p> <p>4 MR. KANE: For the record, so there 5 are records relating to that PCA interview, but 6 there is a video-recorded one just of M. 7 speaking with -- well, the detective can go 8 into what that is.</p> <p>9 MR. LEVIN: Okay.</p> <p>10 BY MR. LEVIN:</p> <p>11 Q. You've had the opportunity to look at that 12 initial interview that was conducted by the PCA?</p> <p>13 A. Yes, that's correct.</p> <p>14 Q. Okay. And could you summarize what you 15 recall being related in that interview?</p> <p>16 A. So when PCA does an interview, they give a 17 report summary, which is in here in this packet.</p> <p>18 Q. What page are we looking at for that?</p> <p>19 MR. KANE: Page 15 is the beginning.</p> <p>20 THE WITNESS: Page 19 would be a 21 summary of her interview with PCA.</p> <p>22 BY MR. LEVIN:</p> <p>23 Q. Okay. Now, on Page 16, I guess, this is 24 just -- there's a little box Allegations, that</p>	<p>Page 23</p> <p>1 A. No.</p> <p>2 MR. KANE: Objection to the form.</p> <p>3 BY MR. LEVIN:</p> <p>4 Q. That may have been inelegantly stated, but 5 is it fair to state that there was never anything to 6 actually corroborate that Ryan held a knife on the 7 girl?</p> <p>8 MR. KANE: Objection to the form.</p> <p>9 You can answer.</p> <p>10 THE WITNESS: That is correct.</p> <p>11 BY MR. LEVIN:</p> <p>12 Q. Any evidence of other type of force being 13 used in any type of manner?</p> <p>14 A. No.</p> <p>15 Q. And I only understand this through 16 counsel, but I'll ask you now on the record. Well, 17 let me ask you a couple preliminaries.</p> <p>18 You're aware that ultimately Ryan died in 19 an unrelated incident where there's a police pursuit 20 and he ends up colliding with a truck, right?</p> <p>21 A. I'm aware of that, yeah, that he died.</p> <p>22 Q. I take it that, with his death, that was 23 pretty much the end of this going anywhere in terms 24 of the investigation, right?</p>

<p>Page 24</p> <p>1 A. That's correct. As far as any criminal 2 investigation, correct.</p> <p>3 Q. There had not been a formal charging 4 determination prior to his death, had there?</p> <p>5 A. There had not been.</p> <p>6 Q. And my understanding, getting around to 7 where I was going to start off before, is that there 8 was at least a view that he would not have been 9 charged with any offense that involved coercion or 10 force based on the evidence you had, right?</p> <p>11 A. That is correct.</p> <p>12 Q. If there was any charge to be brought, it 13 would be brought based on the age of the victim 14 alone, correct?</p> <p>15 A. That is correct.</p> <p>16 Q. And my understanding is the relevant 17 statute deems anybody under 13, that's, like, an 18 automatic sexual assault of some sort, right?</p> <p>19 A. That's correct, yeah. The age of consent 20 in Pennsylvania is 13. So M. being 12 years old, 21 she wouldn't be able to consent. When I say the age 22 of consent being 13, it's 13 within four years. So 23 a 13-year-old technically could have sex with a 24 17-year-old. But in this case, M. being 12, she</p>	<p>Page 26</p> <p>1 brought?</p> <p>2 A. It wasn't yet. So I had received the 3 Instagram results mid-April, around April 18th or 4 so. It would have taken me quite some time to get 5 through those results. It would have been, both the 6 complainant M. and Ryan's Instagram accounts, plus 7 both of their cell phones, so the amount of data 8 that that would encompass is a very, very large 9 amount. So that would have taken probably at least 10 a month, while working on other cases, to get 11 through that.</p> <p>12 Q. That was -- the Instagram data, that was 13 the subject of a different search warrant 14 application, right? There were two?</p> <p>15 A. So there were -- I submitted search 16 warrants to M.'s Instagram account and then a search 17 warrant to Ryan's Instagram account, as well as a 18 search warrant to Ryan's cell phone. So there was 19 three search warrants total. But then I did a 20 consent to search on M.'s phone. So total would be 21 two cell phone dumps and then two Instagram results.</p> <p>22 Q. All right. And in terms of the 23 information you got from Instagram, anything 24 relevant in terms of communications to the charges</p>
<p>Page 25</p> <p>1 wouldn't be able to consent with anyone.</p> <p>2 Q. It's based on, sort of, the person's 3 mental capacity or maturity level to consent to a 4 sexual relationship, right?</p> <p>5 A. As far as why they determined 13 being the 6 age?</p> <p>7 Q. Regardless of what age they determined, 8 but if you're below the age of consent, it's a 9 presumption that you can't really consent, right?</p> <p>10 A. That's correct.</p> <p>11 Q. Too immature, don't know what you're 12 consenting to, right?</p> <p>13 A. Correct.</p> <p>14 Q. She was a year younger than she would have 15 been. If she had been 13 at the time, Ryan being 16 15, statute is not violated, correct?</p> <p>17 A. That would be correct.</p> <p>18 Q. So the only basis for the charge would 19 solely be based on basically statutory -- what we 20 used to call statutory rape, it's just sexual 21 assault if somebody goes beneath the requisite age, 22 right?</p> <p>23 A. That's correct.</p> <p>24 Q. That charge wasn't actually formally</p>	<p>Page 27</p> <p>1 that were on their way to being brought?</p> <p>2 A. As far as the communication between M. and 3 Ryan, they did talk about the incident at some 4 point, and it didn't appear as though it was any 5 force used. It appeared they were talking about it 6 in a consensual way, which led to my decision of not 7 bringing charges for any charging of the force in 8 the incident.</p> <p>9 Q. My overall sense, and, obviously, you 10 don't have to agree with this, but my sense going 11 through the documents and everything, it sounds like 12 it was likely something she agreed to, regardless of 13 whether she could legally agree to, and then the 14 fact that it got discovered, she felt, either 15 humiliated or violated, because it's now making its 16 way around. Is that a fair characterization?</p> <p>17 MR. KANE: Objection to the form.</p> <p>18 You can answer.</p> <p>19 THE WITNESS: That's very possible, 20 you know, that that's what happened.</p> <p>21 BY MR. LEVIN:</p> <p>22 Q. Could that have been -- in your opinion, 23 did that color her representations about what 24 happened?</p>

<p>Page 28</p> <p>1 MR. KANE: Objection to the form.</p> <p>2 You can answer.</p> <p>3 THE WITNESS: To me, it didn't appear</p> <p>4 that there was force used. It appeared she did</p> <p>5 voluntarily, you know, do what she did, went to</p> <p>6 the park, performed that act, and then, you</p> <p>7 know, may have been embarrassed about it</p> <p>8 sometime after.</p> <p>9 BY MR. LEVIN:</p> <p>10 Q. And I know that, you know, it's likely</p> <p>11 that, because there was a violation of the statute,</p> <p>12 it seems, based on her age -- strike that.</p> <p>13 Did M. ever change or retract any part of</p> <p>14 her initial story to the police?</p> <p>15 A. Not that I recall.</p> <p>16 Q. Other than M.'s mother, are you aware of</p> <p>17 any family members that had interfaced with any of</p> <p>18 the police assigned to the investigation?</p> <p>19 A. I'm not, no.</p> <p>20 Q. Do you know the defendant in this case,</p> <p>21 Officer Joseph Wolk?</p> <p>22 A. I know who he is, but I don't think I ever</p> <p>23 had a conversation with him or anything like that.</p> <p>24 Q. I took his deposition a couple months</p>	<p>Page 30</p> <p>1 12. Is it an unusual fact pattern at all in terms</p> <p>2 of this type of investigation?</p> <p>3 A. As far as charging a stat rape?</p> <p>4 Q. Yeah.</p> <p>5 A. No, it wouldn't be unusual, no.</p> <p>6 Q. I just don't have any sense of that. It's</p> <p>7 something that I, kind of, figure goes on a lot,</p> <p>8 probably more than most parents want to know.</p> <p>9 There's another individual involved in the</p> <p>10 pursuit with Ryan Miller, a guy named Gary Bove. Is</p> <p>11 that a name you've ever heard before?</p> <p>12 A. Yeah, I've heard the name before.</p> <p>13 Q. Any idea how you heard that name before?</p> <p>14 A. From being a tow truck driver. I know</p> <p>15 he's friendly with a lot of police officers. I've</p> <p>16 spoken with Gary before in reference to tow truck</p> <p>17 incidents or things.</p> <p>18 Q. Does he have your number?</p> <p>19 A. Yeah.</p> <p>20 Q. This guy knows everybody.</p> <p>21 Had he ever brought up Ryan Miller at any</p> <p>22 context to you or anybody that you work with, to the</p> <p>23 best of your knowledge?</p> <p>24 A. No, not that I know of.</p>
<p>Page 29</p> <p>1 back. He indicated that he knew, after Ryan's</p> <p>2 death, about this investigation. Do you have any</p> <p>3 sense of how he would've found out about this</p> <p>4 investigation?</p> <p>5 A. I don't.</p> <p>6 Q. Would he have had the abilities as an</p> <p>7 officer to log into any kind of database or anything</p> <p>8 and pull up information that pertains to this</p> <p>9 investigation?</p> <p>10 A. Possibly. I'm not sure what sign-ons he</p> <p>11 has or doesn't have, to be honest with you.</p> <p>12 Q. Has anybody ever made you aware of any</p> <p>13 connection or potential connection between Officer</p> <p>14 Wolk and this -- the victim, M.?</p> <p>15 A. No.</p> <p>16 Q. Are you aware of any connection between</p> <p>17 this incident and the police pursuit that occurred</p> <p>18 in May of 2019 where Ryan ultimately died?</p> <p>19 A. I'm not, no.</p> <p>20 Q. Now, this is two kids involved in a sexual</p> <p>21 act, and, obviously, one was too young to be doing</p> <p>22 that under the law, no matter what. Is it uncommon</p> <p>23 to bring that type of prosecution against -- I mean,</p> <p>24 here you have somebody who is 15 and somebody who is</p>	<p>Page 31</p> <p>1 Q. Do you know if he had any association or</p> <p>2 relationship to the victim or her mom?</p> <p>3 A. Not that I know of, no.</p> <p>4 Q. Did you or anybody that you know of that</p> <p>5 was assigned to the investigation ever have any</p> <p>6 communication with Gary pertaining to this</p> <p>7 investigation of Ryan Miller?</p> <p>8 A. No, not that I know of.</p> <p>9 Q. I can see where a tow truck driver can run</p> <p>10 into police officers on a regular, frequent basis.</p> <p>11 It sounds like this is a guy who actually socializes</p> <p>12 and knows a lot of police officers. Do you have any</p> <p>13 sense of where this individual frequents? Are there</p> <p>14 any bars, clubs or anything like that that you know</p> <p>15 of that he hangs out at?</p> <p>16 A. No, not that I know of.</p> <p>17 Q. Now, let me just ask you this to clarify</p> <p>18 for the record. Even if Officer Wolk had learned</p> <p>19 about this incident, this investigation prior to</p> <p>20 there being actual charges involved, no arrest or</p> <p>21 custodial interrogation of Ryan would have been</p> <p>22 authorized at that time, right?</p> <p>23 A. Not that I'm aware of, no.</p> <p>24 Q. All right. So I just want to go through,</p>

<p>Page 32</p> <p>1 I guess, the balance of these documents real quick</p> <p>2 for purposes of identification. We've already, sort</p> <p>3 of, referenced M.'s statement, which is Pages 5</p> <p>4 through 7. And this is your supplemental interview.</p> <p>5 We've already discussed that, right?</p> <p>6 A. That's correct.</p> <p>7 Q. And doesn't seem that there was really</p> <p>8 much discussed in terms of the incident itself, but,</p> <p>9 sort of, after the fact, she blocked him on</p> <p>10 Instagram, deleted Instagram from her phone, things</p> <p>11 of that nature?</p> <p>12 A. That's correct. Normally, what will</p> <p>13 happen is during the forensic interview, whatever</p> <p>14 detective or investigator is watching in will take</p> <p>15 their own notes or take mental notes of some</p> <p>16 follow-up questions they want to ask, and that's</p> <p>17 basically what this is.</p> <p>18 Q. It seems to me you were thinking, maybe I</p> <p>19 need to look at her Instagram data if that's how</p> <p>20 they were communicating, and that's what this</p> <p>21 discussion is centered on, right?</p> <p>22 A. That's correct.</p> <p>23 Q. And just during your supplemental</p> <p>24 interview, she also confirmed she wasn't going to</p>	<p>Page 34</p> <p>1 Q. Was that just a regular officer or is that</p> <p>2 a Special Victim's Unit officer?</p> <p>3 A. Officer Wilson is an investigator at the</p> <p>4 Special Victim's Unit.</p> <p>5 Q. Okay. We already briefly touched on the</p> <p>6 PCA summary, which is Pages 15 through 19, correct?</p> <p>7 A. Yes.</p> <p>8 Q. And looking at the summary, you've also, I</p> <p>9 guess, seen the video that this summarizes?</p> <p>10 A. I have.</p> <p>11 Q. When you were looking through the summary</p> <p>12 in preparation for your deposition, did you notice</p> <p>13 if there was anything that was mentioned in that</p> <p>14 video or discussed in that video that you felt was</p> <p>15 important that isn't recorded here in the summary?</p> <p>16 A. No. This is an accurate summary of the</p> <p>17 pertinent information.</p> <p>18 Q. You feel it's substantially complete?</p> <p>19 A. I do.</p> <p>20 Q. All right. Next thing, Pages 20 through</p> <p>21 21 is just information on Ryan and, I guess, what he</p> <p>22 was wearing, what he had on him?</p> <p>23 A. Yes, it is. It's a 229 form, which is a</p> <p>24 biographical information report. So any person that</p>
<p>Page 33</p> <p>1 say anything, had this video not come to light?</p> <p>2 A. That's correct.</p> <p>3 Q. Next interview, which is Pages 8, 9, 10,</p> <p>4 that's the interview with the principal of the</p> <p>5 school, Paula Furman?</p> <p>6 A. Yes, it is.</p> <p>7 Q. And she, sort of, goes through how this</p> <p>8 all came to her attention, and what kids were</p> <p>9 telling her, what she did in response, right?</p> <p>10 A. Yep.</p> <p>11 Q. The next document we have in this package,</p> <p>12 Pages 11 and 12, I believe this is Detective</p> <p>13 Gonzalez talking to Officer Flynn?</p> <p>14 A. Yes, it is.</p> <p>15 Q. Okay. And that's just to, sort of,</p> <p>16 memorialize how the police were notified and how the</p> <p>17 investigation was started up, right?</p> <p>18 A. That's correct.</p> <p>19 Q. Okay. Going through 13 and 14, this is</p> <p>20 M.'s mom's interview, right?</p> <p>21 A. Yes, it is.</p> <p>22 Q. Okay. And this was just conducted by an</p> <p>23 Officer Wilson?</p> <p>24 A. Yes.</p>	<p>Page 35</p> <p>1 is arrested or brought into custody, this is filled</p> <p>2 out by the officers that make that arrest.</p> <p>3 Q. And that gives them some identifying</p> <p>4 characteristics and, I guess, keeps track of what</p> <p>5 property he's got on him or if anything is taken</p> <p>6 while he's in custody or anything like that?</p> <p>7 A. That's correct.</p> <p>8 Q. Pages 22 through, I guess, 24 looks just</p> <p>9 to be an exchange of emails relative to this</p> <p>10 information, which seems like it was probably</p> <p>11 because Derek over here asked about it, and somebody</p> <p>12 contacted, I guess, some folks at the Special</p> <p>13 Victim's Unit to ask about the investigation; is</p> <p>14 that a fair summary?</p> <p>15 A. That's correct. Yeah, John Hewitt who is</p> <p>16 listed here as a lieutenant within Special Victim's</p> <p>17 Unit.</p> <p>18 Q. He's basically explaining to Colleen Brown</p> <p>19 that, you know, the investigation basically ended</p> <p>20 because the suspect died prior to a charging</p> <p>21 decision being made, right?</p> <p>22 A. That's correct.</p> <p>23 Q. We already discussed what the likely</p> <p>24 outcome of that charging decision would have been,</p>

<p>1 right?</p> <p>2 A. We did.</p> <p>3 Q. Moving on, looks like the next document,</p> <p>4 Pages 25 through 27, this is pertaining to the</p> <p>5 Instagram records that we already discussed, right?</p> <p>6 A. That's correct. It's a search warrant</p> <p>7 affidavit that was submitted for Ryan Miller's</p> <p>8 Instagram.</p> <p>9 Q. Username: Irish Potato 215.</p> <p>10 And Pages 28 through 30, this would be for</p> <p>11 M.'s Instagram account?</p> <p>12 A. That is correct.</p> <p>13 Q. Okay. I know that M. mentioned that she</p> <p>14 had deleted Instagram from her phone. Did she</p> <p>15 delete her account or was there still an active</p> <p>16 account?</p> <p>17 A. There was still an active account, I</p> <p>18 believe.</p> <p>19 Q. And next thing, Pages 31 and 32, this</p> <p>20 looks to be just the property receipt for when Ryan</p> <p>21 was taken into custody; is that fair?</p> <p>22 A. 31 was a property receipt for Ryan's cell</p> <p>23 phone. And it looks like 32 --</p> <p>24 Q. That's for --</p>	<p>Page 36</p> <p>1 first found out that Ryan died, to be honest with</p> <p>2 you.</p> <p>3 Q. When you saw the article, did the name</p> <p>4 ring a bell; is that what happened?</p> <p>5 A. It did, yeah.</p> <p>6 Q. All right. Is there anything that</p> <p>7 occurred or transpired during the investigation of</p> <p>8 note that we haven't covered that you think is</p> <p>9 relevant?</p> <p>10 A. Not that I can think of, no.</p> <p>11 MR. LEVIN: I don't have any further</p> <p>12 questions.</p> <p>13 MR. KANE: Just some quick questions</p> <p>14 from me.</p> <p>15 BY MR. KANE:</p> <p>16 Q. On February 8, 2019, Mr. Miller was taken</p> <p>17 into custody; is that correct?</p> <p>18 A. That is correct.</p> <p>19 Q. Was he arrested that day?</p> <p>20 A. He was. He was brought up to the Special</p> <p>21 Victim's Unit and placed in custody up there.</p> <p>22 Q. Would Mr. Miller have been told why he was</p> <p>23 arrested that day?</p> <p>24 A. Yes.</p>
<p>Page 37</p> <p>1 A. Would have been M.'s cell phone.</p> <p>2 Q. All right. Other than what we have here,</p> <p>3 and, you know, I already referenced there was some</p> <p>4 pictures of the phone and SIM card that I omitted,</p> <p>5 were there any other documents, to your knowledge,</p> <p>6 that were generated during the course of your</p> <p>7 investigation?</p> <p>8 A. Not that I recall anything pertinent, no.</p> <p>9 Q. Okay. So this is substantially complete</p> <p>10 as well?</p> <p>11 A. That is correct.</p> <p>12 Q. All right. Since the conclusion of your</p> <p>13 investigation into Ryan Miller, have you ever heard</p> <p>14 from any source, other than through counsel,</p> <p>15 anything regarding the pursuit where he ultimately</p> <p>16 died?</p> <p>17 A. I have not.</p> <p>18 Q. How did you learn about that pursuit?</p> <p>19 A. I don't recall specifically. I remember</p> <p>20 there being a small article on, I believe, it was on</p> <p>21 Fox 29 that I printed out in reference to that. And</p> <p>22 then Lieutenant Hewitt, who was part of the email</p> <p>23 chain, had asked for my file in reference to this</p> <p>24 incident. But I can't specifically recall how I</p>	<p>Page 39</p> <p>1 Q. Okay. Do you have any understanding of</p> <p>2 what he would have been told?</p> <p>3 A. I don't specifically remember my</p> <p>4 conversation with him. I did explain to him why he</p> <p>5 was up there, you know, why he was, you know, in the</p> <p>6 cell at that point. I believe I told him to just</p> <p>7 relax and we'll explain to him when we get further</p> <p>8 down in the investigation. He was later released</p> <p>9 that day after speaking with ADA Helen Park of the</p> <p>10 district attorney's office.</p> <p>11 Q. Is it your understanding that Mr. Miller</p> <p>12 would have been told that he was accused of forcible</p> <p>13 rape on that day?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. At any point from the time that</p> <p>16 Mr. Miller was arrested to the time of his death,</p> <p>17 would either he or his family had ever been told</p> <p>18 that no charges would be brought against him related</p> <p>19 to the incident that we've been talking about?</p> <p>20 A. No. The investigation was still pending</p> <p>21 at that time.</p> <p>22 Q. And to be clear, the investigation</p> <p>23 eventually was stopped because of Mr. Miller's</p> <p>24 death; is that correct?</p>

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1 A. That is correct.

2 Q. But are you able to tell us with any
3 confidence if any charges would have been brought
4 against Mr. Miller if he hadn't died?

5 A. I would have submitted an affidavit for a
6 warrant in reference to the statutory rape.

7 Q. Just to be clear, who would you have
8 submitted that to?

9 A. The district attorney's office, the
10 charging unit.

11 MR. KANE: Those are my questions.

12 Thank you for your time.

13 BY MR. LEVIN:

14 Q. Ultimately, the district attorney charging
15 unit is the authority that makes the decision as to
16 whether charges are brought or not, right?

17 A. That is correct. I submit all my evidence
18 to them and they make the ultimate decision whether
19 a warrant will be issued or not.

20 Q. I know I saw in the documents there is a
21 reference to Ryan saying M. was his girlfriend and
22 it was consensual. Was there ever a formal
23 interview like we have with M., her mom, the
24 principal? Was there any kind of formal interview

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1 with Ryan or did he invoke his right to remain
2 silent?

3 A. No, there wasn't. I never took a
4 statement from him, no.

5 Q. I also saw that there was a reference to
6 Ryan's mom saying that he and M. had been seeing
7 each other for a couple of months. Did she ever
8 give a more formal statement?

9 A. No, she didn't.

10 MR. LEVIN: All right. That's all I
11 have.

12 MR. KANE: Thank you for your time.

13 THE WITNESS: Thank you.

14 THE COURT REPORTER: Mr. Kane, would
15 you like a copy of the transcript?

16 MR. KANE: Yes, digital.

17 - - -

18 (Deposition concluded.)
19
20
21
22
23
24

C E R T I F I C A T I O N

I, NICOLE DeNOFA, a Registered Professional Reporter and Notary Public in and for the Commonwealth of Pennsylvania, hereby certify that the proceedings and evidence are contained fully and accurately in the stenographic notes taken by me on the deposition of the above cause, and that this copy is a correct transcript of the same.

I further certify that I am not a relative or employee of any attorney or counsel employed in the case.

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10 (2)	4/40 (1)	amount (2)	beginning (1)
10:00 (1)	< 5 >	AMY (2)	believe (14)
11 (1)	5 (4)	analysis (1)	bell (1)
12 (5)	< 7 >	and/or (1)	belonging (1)
1210 (1)	7 (2)	answer (6)	beneath (1)
13 (7)	< 8 >	answered (1)	best (1)
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14 (1)	8th (1)	anybody (4)	bit (1)
14th (2)	< 9 >	appear (2)	blocked (1)
15 (6)	9 (1)	appeared (2)	Bove (1)
1515 (2)	911 (2)	appears (1)	box (1)
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18 (1)	A.P (2)	approved (4)	brief (1)
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19 (3)	able (3)	Arch (2)	bring (2)
19053 (1)	abuse (2)	arrest (2)	bringing (1)
19102 (2)	Academy (1)	arrested (4)	brings (3)
< 2 >	access (1)	article (2)	brought (19)
2:20-cv-06301-ER (1)	accomplished (1)	asked (6)	Brown (1)
20 (1)	account (6)	assault (2)	business (1)
2018 (1)	accounts (2)	assaulted (1)	< C >
2019 (8)	accurate (1)	assigned (7)	call (3)
2023 (1)	accurately (1)	assignment (1)	called (2)
21 (2)	accused (1)	Associates (1)	calls (1)
215 (1)	act (6)	association (1)	capacity (1)
215)683-5447 (1)	active (2)	assume (1)	card (2)
215)953-5200 (1)	activities (1)	assuming (1)	case (10)
22 (1)	actual (3)	attention (3)	cases (1)
229 (1)	ADA (1)	attorney (2)	cause (1)
24 (1)	additional (1)	attorney's (2)	cell (10)
25 (1)	address (1)	audio (1)	centered (1)
27 (1)	Administrators (1)	authorities (1)	centered (1)
28 (1)	adults (1)	authority (2)	certainly (1)
280 (1)	affidavit (2)	authorized (1)	Certification (1)
29 (1)	age (9)	automatic (1)	certify (2)
< 3 >	ago (1)	available (2)	certifying (1)
3 (2)	agree (2)	aware (8)	chain (1)
30 (1)	agreed (1)	< B >	change (1)
31 (2)	al (1)	Bachelor's (2)	characteristics (1)
32 (2)	allegation (4)	back (4)	characterization (2)
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			Children's (1)

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Colleen (1)	current (1)	driver (2)	finish (1)
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comes (1)			Floor (2)
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consensual (4)	derek.kane@phila.gov	evidence (5)	frequent (1)
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 MICHAEL (2)
 michael@flagerlaw.co
 m (1)
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we're (3)
We've (3)
wheel (1)
Wilson (3)
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Wolk (3)
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years (6)
Yep (1)
young (2)
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